

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7588 OF 2006

Mr.Pravin Sarmal Jain

...Petitioner

V/s.

Thane Municipal Corporation

...Respondent

Shri.D.K. Ghaisas for Petitioner.

Shri.R.S. Apte for Respondent.

CORAM : V.M. KANADE, J.

DATED : 8th MARCH, 2007.

P.C. :-

1. Heard learned counsel for the Petitioner and the learned counsel for the Respondent.
2. The Petitioner is challenging the order passed by the Lower Appellate Court allowing application filed by the Corporation and set aside injunction which is granted by the Trial Court.
3. Brief facts are that the Corporation had issued notice of demolition to the Petitioner herein on the ground that suit building is in a dilapidated condition. This notice was challenged by the Petitioner by filing suit. Initially, Trial Court granted injunction in favour of the Petitioner. However, Appellate Court has vacated the said injunction. It is an admitted position that first notice of demolition was issued in the year 1995

and two conflicting reports have been filed by two architecture. One report states that building is in a dilapidated condition whereas other report states that ground floor on which shop is situated is not in a dilapidated condition and only repairs can be carried out on two floors.

4. In my view, it is not proper to consider the aspect regarding condition of building, particularly when first notice was issued in the year 1995. Since order of injunction has continued to operate from 2005, ends of justice would be met if direction is given to the Trial Court to decide the suit expeditiously within six months. In the meantime order passed by the Trial Court shall continue to operate pending hearing and final disposal of suit.

5 Petition is allowed in the above terms. All contentions of the parties are kept open. Statement of learned counsel for the petitioner is that his client has no objection if upper floors are demolished and that petitioner shall co-operate with the corporation if this work is undertaken by them. Statement is accepted.

V.M. KANADE, J.